

REMARKS/ARGUMENTS

This letter is responsive to the Office Action dated November 16, 2004.

The application currently has 2 independent claims and 13 claims in total. Accordingly, no claim fees are due with this response.

In the office action the Examiner has indicated that there are informal errors on page 26, lines 2 and 29 and in claims 4 and 5. The applicant has enclosed herewith an amended version of the paragraphs that begin on page 25, line 26, and on page 26, line 22, and amended claims 4 and 5 to address the informal objections raised by the Examiner. In particular, there appear to be some missing letters in the electronic copy of the application that was reviewed by the Examiner. The applicant submits that these errors were not present in the paper copy of the application that was filed on January 27, 2004 at the USPTO. Nonetheless, the applicant has provided amended copies of each of the objected-to paragraphs and claims in order to correct the errors mentioned by the Examiner.

In the office action the Examiner has indicated that claims 2-5 and 7 would be allowable if rewritten in independent form. The application has rewritten claim 2 as new independent claim 8, and has added new claims 9-13, which correspond to claims 3-7. The applicant submits that these claims are allowable at least by way of their dependency on claim 8:

In the office action the Examiner has rejected claim 1 under 35 U.S.C. 102(b) as being anticipated by US Patent Nos. 3,677,074 (Murr), and 6,143,011 (Hood et al.).

Claim 1 claims a method of obtaining pressure within the eyeball of a subject, the method comprising:

(a) applying a constant known first reference pressure to a first location on the eyelid of the subject;

(b) applying at least a second pressure to an at least second location on the eyelid of the subject;

(c) increasing the second pressure until a slight increase in the pressure is detected at the first location beyond the constant known reference pressure; and

(d) noting the second pressure being applied at the time the increase in the pressure is detected at the first location, the noted second pressure being an indication of the pressure within the eyeball.

The Examiner stated that both Murr and Hood et al. disclose each of these steps.

The applicant respectfully traverses these two rejections of claim 1. With respect to Murr, the applicant submits that Murr discloses a device that includes a body portion to which two sensors 14 and 16 are connected. The outer sensor 16 is connected to the body portion 22 by means of a bridge strip 19 and a pair of arms 21 (see column 2, lines 18-23). The inner sensor 14 is connected to the body portion 22 by means of a bridge strip 23 and a pair of arms 24 (see column 2, lines 27-31). The applicant submits that, because both sensors extend outwards from the same component (ie. body portion 22), one is not capable of applying a constant known first reference pressure while the other applies an increasing second pressure. If the device of Murr is applied to the eye whereby pressure is being applied by both the first and second sensors 14 and 16, there is no way of applying further pressure with one of the sensors while at the same time maintaining a constant pressure with the other of the sensors, since both sensors are connected to the same component, namely body portion 22.

Accordingly, the applicant submits that Murr clearly does not disclose maintaining a constant known reference pressure and applying an increasing second pressure on the eyelid. Therefore, the applicant submits that claim 1 is not anticipated by Murr.

With respect to Hood et al. the applicant submits that the '011 patent cited by the Examiner issued and was first published on November 7, 2000, which was less than one year prior to the priority date for the present application, which is May 11, 2001.

Accordingly, the applicant submits that Hood et al. is not citable under 35 U.S.C. 102(b) as a patent or printed publication.

Regardless of the above, however, the applicant submits that Hood et al. does not disclose any of the steps claimed in claim 1. Hood et al. discloses at column 8, lines 26-48, (referred to by the Examiner), that a plurality of force transducer/force sensor elements 113 are embedded in an applanator and are capable of precision micro-extension. The following paragraph discloses that the applanator, to which the elements 113 are attached can be used to selectively alter the curvature of the cornea while resection of the cornea is carried out by a liquid jet 77. The applicant submits that Hood et al. does not disclose in the text referred to by the Examiner or anywhere else in the patent, to maintain a constant known reference pressure and to apply an increasing second pressure on the eyelid, as claimed in claim 1. Accordingly, the applicant submits that even if Hood et al. were citable prior art against the present application, it does not disclose several steps claimed in claim 1. Therefore, the applicant submits that claim 1 is not anticipated by Hood et. al.

In the Office Action, claim 6 was rejected under 35 U.S.C. 103(a) as being obvious in view of Murr. Claim 6 depends from claim 1. The Examiner reiterated his position that Murr discloses all the features of claim 1. The Examiner stated that the features of claim 6 are not disclosed by Murr, but are obvious, based on the Examiner's premise that Murr discloses all the features of claim 1.

The applicant respectfully traverses the Examiner's argument. The applicant submits that Murr does not disclose several steps in claim 1, as explained above, including maintaining a constant known reference pressure and applying an increasing second pressure on the eyelid. Accordingly, the applicant submits that the Examiner's premise upon which his obviousness rejection for claim 6 is based, is incorrect. Accordingly, the applicant submits claim 6 is not obvious and is patentable over Murr at least as a result of its dependency on claim 1.

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In a voluntary amendment of claim 2, the applicant has amended claim 2 to correct an inadvertent error. The word 'eyeball' has been changed to 'eyelid'.

In a voluntary amendment of claim 1, the applicant has deleted the text "the steps of" in the preamble. This amendment does not affect the scope of the claim, and merely removes language that is unnecessary.

The applicant submits that the application is now in condition for allowance and early review and allowance are requested.

Respectfully submitted,

BERESKIN & PARR

By 
Jay M. Millman
Reg. No. 52,520
Tel: 416-957-1679